

Union Calendar No. 300

105TH CONGRESS
2^D SESSION

H. R. 3723

[Report No. 105-528]

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 1998

Mr. COBLE introduced the following bill; which was referred to the Committee on the Judiciary

MAY 12, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 23, 1998]

A BILL

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “United States Patent*
3 *and Trademark Office Reauthorization Act, Fiscal Year*
4 *1999”.*

5 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

6 *There are authorized to be made available for the pay-*
7 *ment of salaries and necessary expenses of the Patent and*
8 *Trademark Office in fiscal year 1999, \$66,000,000 from fees*
9 *collected in fiscal year 1998 and such fees as are collected*
10 *in fiscal year 1999, pursuant to title 35, United States*
11 *Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et*
12 *seq.). Amounts made available pursuant to this section shall*
13 *remain available until expended.*

14 **SEC. 3. LEVEL OF FEES FOR PATENT SERVICES.**

15 *(a) GENERAL PATENT FEES.—Section 41 of title 35,*
16 *United States Code, is amended by striking subsection (a)*
17 *and inserting the following:*

18 *“(a) The Commissioner shall charge the following fees:*

19 *“(1)(A) On filing each application for an origi-*
20 *nal patent, except in design or plant cases, \$760.*

21 *“(B) In addition, on filing or on presentation at*
22 *any other time, \$78 for each claim in independent*
23 *form which is in excess of 3, \$18 for each claim*
24 *(whether independent or dependent) which is in excess*
25 *of 20, and \$260 for each application containing a*
26 *multiple dependent claim.*

1 “(C) *On filing each provisional application for*
2 *an original patent, \$150.*

3 “(2) *For issuing each original or reissue patent,*
4 *except in design or plant cases, \$1,210.*

5 “(3) *In design and plant cases—*

6 “(A) *on filing each design application,*
7 *\$310;*

8 “(B) *on filing each plant application, \$480;*

9 “(C) *on issuing each design patent, \$430;*
10 *and*

11 “(D) *on issuing each plant patent, \$580.*

12 “(4)(A) *On filing each application for the reissue*
13 *of a patent, \$760.*

14 “(B) *In addition, on filing or on presentation at*
15 *any other time, \$78 for each claim in independent*
16 *form which is in excess of the number of independent*
17 *claims of the original patent, and \$18 for each claim*
18 *(whether independent or dependent) which is in excess*
19 *of 20 and also in excess of the number of claims of*
20 *the original patent.*

21 “(5) *On filing each disclaimer, \$110.*

22 “(6)(A) *On filing an appeal from the examiner*
23 *to the Board of Patent Appeals and Interferences,*
24 *\$300.*

1 “(B) *In addition, on filing a brief in support of*
2 *the appeal, \$300, and on requesting an oral hearing*
3 *in the appeal before the Board of Patent Appeals and*
4 *Interferences, \$260.*

5 “(7) *On filing each petition for the revival of an*
6 *unintentionally abandoned application for a patent*
7 *or for the unintentionally delayed payment of the fee*
8 *for issuing each patent, \$1,210, unless the petition is*
9 *filed under section 133 or 151 of this title, in which*
10 *case the fee shall be \$110.*

11 “(8) *For petitions for 1-month extensions of time*
12 *to take actions required by the Commissioner in an*
13 *application—*

14 “(A) *on filing a first petition, \$110;*

15 “(B) *on filing a second petition, \$270; and*

16 “(C) *on filing a third petition or subsequent*
17 *petition, \$490.*

18 “(9) *Basic national fee for an international ap-*
19 *plication where the Patent and Trademark Office was*
20 *the International Preliminary Examining Authority*
21 *and the International Searching Authority, \$670.*

22 “(10) *Basic national fee for an international ap-*
23 *plication where the Patent and Trademark Office was*
24 *the International Searching Authority but not the*

1 *International Preliminary Examining Authority,*
2 \$760.

3 “(11) *Basic national fee for an international ap-*
4 *plication where the Patent and Trademark Office was*
5 *neither the International Searching Authority nor the*
6 *International Preliminary Examining Authority,*
7 \$970.

8 “(12) *Basic national fee for an international ap-*
9 *plication where the international preliminary exam-*
10 *ination fee has been paid to the Patent and Trade-*
11 *mark Office, and the international preliminary exam-*
12 *ination report states that the provisions of Article 33*
13 *(2), (3), and (4) of the Patent Cooperation Treaty*
14 *have been satisfied for all claims in the application*
15 *entering the national stage, \$96.*

16 “(13) *For filing or later presentation of each*
17 *independent claim in the national stage of an inter-*
18 *national application in excess of 3, \$78.*

19 “(14) *For filing or later presentation of each*
20 *claim (whether independent or dependent) in a na-*
21 *tional stage of an international application in excess*
22 *of 20, \$18.*

23 “(15) *For each national stage of an inter-*
24 *national application containing a multiple dependent*
25 *claim, \$260.*

1 *For the purpose of computing fees, a multiple dependent*
2 *claim referred to in section 112 of this title or any claim*
3 *depending therefrom shall be considered as separate depend-*
4 *ent claims in accordance with the number of claims to*
5 *which reference is made. Errors in payment of the addi-*
6 *tional fees may be rectified in accordance with regulations*
7 *of the Commissioner.”.*

8 **(b) PATENT MAINTENANCE FEES.**—Section 41 of title
9 35, United States Code, is amended by striking subsection
10 (b) and inserting the following:

11 “(b) The Commissioner shall charge the following fees
12 for maintaining in force all patents based on applications
13 filed on or after December 12, 1980:

14 “(1) 3 years and 6 months after grant, \$940.

15 “(2) 7 years and 6 months after grant, \$1,900.

16 “(3) 11 years and 6 months after grant, \$2,910.

17 Unless payment of the applicable maintenance fee is re-
18 ceived in the Patent and Trademark Office on or before the
19 date the fee is due or within a grace period of 6 months
20 thereafter, the patent will expire as of the end of such grace
21 period. The Commissioner may require the payment of a
22 surcharge as a condition of accepting within such 6-month
23 grace period the payment of an applicable maintenance fee.
24 No fee may be established for maintaining a design or plant
25 patent in force.”.

1 **SEC. 4. AUTHORIZATION OF EXPENDITURE.**

2 *Section 42(c) of title 35, United States Code, is amend-*
3 *ed by striking the first sentence and inserting the following:*
4 *“To the extent and in the amounts provided in advance*
5 *in appropriations Acts, fees authorized in this title or any*
6 *other Act to be charged or established by the Commissioner*
7 *shall be available to the Commissioner to carry out the ac-*
8 *tivities of the Patent and Trademark Office.”.*

9 **SEC. 5. EFFECTIVE DATE.**

10 *This Act and the amendments made by this Act shall*
11 *take effect on October 1, 1998.*

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